

REMARKS

The present amendment and remarks are in response to the non-final office action entered in the above-identified case and mailed on February 2, 2004. The Examiner objected to the Abstract. An amended shorter Abstract is included with the present Response. Claims 1-4 are pending in the application. The Examiner has indicated that claims 1-4 are rejected. Claims 1, 2 and 4 stand rejected under 35 U.S.C. §102(e) as being anticipated by Bush et al., U.S. Patent No. 5,475,585. Claim 2 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Bush et al., U.S. Patent No. 5,475,585 as applied to claim 1. Additionally, claims 1, 3, and 4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, and 9-11 of U.S. Patent No. 6,195,649; and as being unpatentable over claims 1-3, 18, 49, and 51 of U.S. Patent No. 5,724,424. An appropriate Terminal Disclaimer is attached.

Applicants turn first to the rejection of claims 1, 2 and 4 as being anticipated by Bush. A claim is anticipated under §102 only if every element of the claim is found in a single prior art reference. In the instant case both independent claims 1 and 4 call for, among other things, a purchase means responsive to a user request for transmitting a purchase message to a merchant computer. Bush does not disclose a corresponding purchase means.

According to the present invention digital advertisements are stored in a database associated with a merchant computer and are transmitted from the merchant computer to the buyers computer over a network. According to claims 1 and 4 the purchase message communicated from the purchase means is sent to the merchant computer. In Bush, however, a menu is broadcast from a transmitting source 10 (transmitting source may or may not be a merchant computer, but more likely it is a video broadcast source) when a user desires to buy a product or service listed on the menu transaction data and user credit card information are sent to a separate transaction processor 30. This information would be sent by a modem through a telephone line (col. 3, l. 29). This is a communication channel separate and distinct from the broadcast channel that delivered the menu to user terminal, and it delivers the purchase message to a different destination from the source of the digital advertisements (menu). Accordingly Bush does not disclose, teach or suggest a purchase means as set forth in the pending claims. Therefore, the rejection under 35 U.S.C. §102(e) is improper and should be withdrawn.

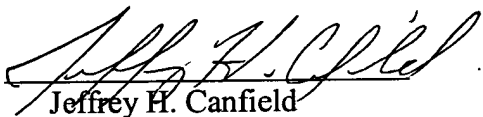
The distinguishing characteristics of Bush's transaction processor and the merchant computer of the pending claims likewise render the claims non-obvious, since clearly Bush does not suggest a purchase means as contemplated by the claim. Therefore all of the claims as they presently stand are in condition for allowance.

Applicant therefore requests that the Examiner allow the claims move the application to issue. However, if there are any remaining issues the Examiner is encouraged to call Applicants' attorney, Jeffrey H. Canfield at (312) 807-4233 in order to facilitate a speedy disposition of the present case.

If any additional fees are required in connection with this response they may be charged to deposit account no. 02-1818.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

BY 
Jeffrey H. Canfield
Reg. No. 38,404
P.O. Box 1135
Chicago, Illinois 60690-1135
Phone: (312) 807-4233

Dated: _____